

Connections

A Biannual Publication of
Washington Coalition of
Sexual Assault Programs

Volume XI, Number 3

WINTER 2009



Teen Sexual Assault Survivors:
Legal Impacts and Considerations

Serving Youth
Effective Advocacy for Youth –
Know Their Rights

Privacy Concerns
Balancing Obligations:
Serving Teen Victims & Mandated
Reporting of Child Rape
Why Teens Don't Tell

Safety Concerns
Challenges Facing Teens
Seeking Protective Orders

Health Care Concerns
Providing Health Care to Minors
Under Washington Law
Emergency Contraception

Education
Teens, School & Sexual Violence

Spot Light
Legal Considerations for Teenage
Victims of Sexual Assault

Abstract
Who Pays the Price?
An Assessment of Youth Involvement
in Prostitution in Seattle

Effective Advocacy for Youth Know Their Rights

By Catherine A. Carroll, Esq.
Sexual Violence Law Center

This winter issue of Connections is dedicated to the legal issues impacting teen survivors of sexual violence.

Youth between the ages of twelve and eighteen suffer the highest rates of sexual violence. Our own state survey tells us that 80% of the respondents were assaulted before the age of eighteen.¹ Teens sometimes are considered invisible to many of us. They lack status as adults yet often don't receive the sympathy easily given to younger children who are sexually abused. In the legal arena it is common for teens to be blamed, at least partially for their victimization because often the victimization is comingled with other status offense crimes such as truancy or under age drinking. Studies show that teen victims of crime receive less support and poorer police response than adult victims of crime.² Teens are caught in a limbo world where they are constantly striving to establish their independence, while also managing school, negotiating their sexuality and maturing into adulthood. Often parents and adults are perceived as untrustworthy or just irrelevant to their daily lives. As we seek to empower teens in our respective communities, it is paramount that we understand the different legal rights afforded teens. Youth have rights and deserve our respect. We have the responsibility to provide young people with the tools they need to be free from sexual violence. ●

mi • nor

Minor - the legal term for anyone under the age of eighteen. Minors do have different rights in our legal systems and age is an important factor. For example, if you are thirteen you can consent to, without having to notify your parent, counseling services; and at sixteen you can petition for a protection order – without an adult. The law also may consider other factors such a maturity of the youth. The difference between a mature fourteen year old and an immature seventeen year old is measurable and courts will assess the victim's credibility by evaluating their behaviors and surrounding circumstances of their victimization.

¹ Berliner, Lucy. *Sexual Assault Experiences and Perceptions of Community Response to Sexual Assault, A Survey of Washington State Women*, Office of Crime Victims Advocacy, Washington State Office of Community Development, October 2001.

² Finkelhor, David. Cross, Theodore P., Cantor, Elise. *The Justice System for Juvenile Victims, A Comprehensive Model of Case Flow*, University of New Hampshire, Trauma, Violence & Abuse, Vol. 6, No. 2, April 2005, p.1-20.

Connections

WINTER 2009
Volume XI, Number 3



Washington Coalition of
Sexual Assault Programs



THIS ISSUE:
Teen Sexual Assault
Survivors

*The Mission of the
Washington Coalition
of Sexual Assault
Programs is to unite
agencies engaged in
the elimination of
sexual violence
through education,
advocacy, victim
services and
social change.*

Connections Magazine
is published biannually
and mailed to subscribing
members of WCSAP.
For membership information
and to view articles online
visit: www.wcsap.org

Design & Layout:
Debi Bodett
debi@debibodett.com

Teen Sexual Assault Survivors: Legal Impacts and Considerations

Serving Youth

Effective Advocacy for Youth –
Know Their Rights
Catherine A. Carroll, Esq.

Privacy Concerns

Balancing Obligations: 1
Serving Teen Victims & Mandated
Reporting of Child Rape
Break the Cycle
Why Teens Don't Tell 6
Rappahanook Council
Against Sexual Violence

Safety Concerns

Challenges Facing Teens 7
Seeking Protective Orders
Kelly O'Connell, Esq.

Health Care Concerns

Providing Health Care to Minors 10
Under Washington Law
Columbia Legal Services
Emergency Contraception 11
Advocates for Youth

Education

Teens, School & Sexual Violence 14
Sexual Violence Law Center

Spot Light

Legal Considerations for Teenage 20
Victims of Sexual Assault
An interview with Casey Truplin

Abstract

Who Pays the Price? 24
An Assessment of Youth Involvement
in Prostitution in Seattle
Debra Boyer

Balancing Obligations:

Serving Teen Victims
& Mandated Reporting
of Child (Statutory) Rape

Break the Cycle

Statutory rape [in Washington referred to as “Rape of a Child”], generally defined as “sexual contact with a minor,” is a unique body of law wherein the crime is based solely on the age of the participants and not the nature of the sexual act itself. These statutory provisions serve as protective measures to ensure that minors do not fall prey to coercive older partners.

However, in the context of teen dating violence, statutory rape laws present several challenges not only for the teen victim, but for service providers who may be bound by ethical and legal duties to report crimes against minors. These mandated reporting requirements can create a barrier to seeking help if a teen victim is afraid that, due to statutory rape laws and mandated reporting, her abuser will be arrested and charged with a crime.¹

Many teens are aware of mandated reporting laws and their knowledge of these laws affects their decision whether or not to disclose dating violence to adult providers. Studies show that confidentiality is the most important factor in whether or not a teen victim seeks services.² If fear of mandated reporting causes a teen who is experiencing dating violence to choose not to disclose the abuse, she may not receive vital services. It may also increase her feelings of isolation and hopelessness.

Providers who work with teens experiencing dating violence must be aware of these obstacles and consider possible solutions because it is a scenario they will likely face at some time in their practice. Recent studies suggest that half of teens between the ages of 15 and 17 experiencing dating violence have an abusive partner who is over the age of 18.³ By taking a few practical steps, service providers can ensure their teen clients’ trust and protect their confidentiality. In order to preserve confidentiality while fulfilling their legal duties, service providers must educate themselves on their jurisdiction’s statutory rape laws, as well as mandated reporting requirements.

Statutory Rape Laws

Statutory rape laws make any sexual contact with a person under the age of consent a criminal offense. Note that most states do not use the term “statutory rape.” Rather these offenses are categorized as unlawful sexual intercourse,⁴ statutory sexual seduction,⁵ importuning,⁶ or sexual intercourse without consent.⁷ State laws vary on the age of consent, as well as the degree of the criminal act.

Historically, statutory rape laws reflected contemporary social norms, such as maintaining chastity and protecting minors from the imbalance of power that exists in sexual relationships between adults and minors. Presently, in addition to those goals, some states (like California) use statutory rape laws as a means to deter teenage pregnancies, and indirectly, dating violence. A significant number of teenage pregnancies are fathered by men more than four years older than the mother.⁸ Studies have shown that pregnancy significantly increases the risk of intimate partner violence.⁹

The crime of statutory rape can be triggered in a variety of ways: single age of consent, minimum age for victims, age differential, and minimum age of defendant. Most states utilize more than one of these categories in their statute. Twelve states specifically delineate an age under which no individual can consent to sexual activity

¹ We refer to victims as “she” and abusers as “he” because that is the reality of most reported cases of relationship violence. However, boys and men can be victims, and girls and women can be abusers; and domestic violence occurs in same-sex relationships at the same rate as in heterosexual relationships. The above information applies equally in those cases.

² Division of Adolescent Medicine. *What We Know About Teen-Friendliness*. 2006. Children’s Hospital Los Angeles.

³ Bureau of Justice Statistics. *Intimate Partner Violence in the United States*, ONLINE. 2007. U.S. Department of Justice. Available: <http://www.ojp.usdoj.gov/bjs/intimate/ipv.htm#content> [Dec. 2007].

⁴ Cal. Penal Code § 261.5 (West 1999).

⁵ Nev. Rev. Stat. 200.364 (1995), Nev. Rev. Stat. 300.368 (2001).

⁶ Ohio Rev. Code Ann. §2907.02 (West 1996).

⁷ Mont. Code Ann. §45-5-503 (2007).

⁸ Donovan, P. “Can statutory rape laws be effective in preventing adolescent pregnancy?” *Family Planning Perspectives* 29.1(1997): 30-34, 40.

⁹ Over 70% of pregnant teens are abused by their boyfriends. See The Children’s Program. “Fact Sheet: Children and Domestic Violence.”



under any circumstances.¹⁰ For example, California employs a single age of consent of 18; thus it is illegal for anyone to have sex with a person under 18, regardless of the age of defendant.¹¹ Most states employ an age differential rule where a minimum age difference, ranging from four to ten years, must be present for the statutory rape statute to be triggered. The District of Columbia employs an age of consent of 16 combined with an age differential requirement of 4 years. There, it is statutory rape for a 19-year-old to engage in consensual sex with a 15-year-old, but not for a 17-year-old to engage in consensual sex with a 15-year-old.¹² In the states that have a minimum victim age, certain sexual acts with individuals under the age of consent but above the minimum age constitute statutory rape, depending upon the age difference or the age of the defendant. For example, New Jersey imposes a minimum victim age requirement of 13. Although the age of consent is 16, in New Jersey certain sexual acts with minors who are at least 13 years old are not criminalized, as long as their partner is not more than four years older.¹³

Although statutory rape statutes are usually written and applied in gender-neutral fashion, there are some gender-specific patterns of which service providers should be aware. Younger male victims are more likely to be abused by a female than a male and the age differential tends to be larger than with teen female victims and their adult male abusers. Among perpetrators of statutory rape against male victims, 70% were over 21, compared with 45% of perpetrators of statutory rape against female victims.¹⁴

Mandated Reporting of Statutory Rape

Certain service providers are required by state law to report acts of child abuse. Mandated reporting laws vary from state to state, but generally include teachers, mental health counselors, clergy, healthcare providers, and legal professionals. Reporting requirements raise unique concerns for service providers who work with teens experiencing dating violence, particularly around the issue of confidentiality. Many state laws explicitly state that the child abuse reporting requirements not only include sexually-based offenses with minors but also statutory rape. Under some reporting statutes, statutory rape is not considered child abuse, unless it is part of intrafamilial sexual abuse. In others, the language is left vague and could be interpreted to require reporting of statutory rape. These inconsistencies can lead to confusion for service providers as to when and under what circumstances reporting statutory rape is mandatory, permissible or barred by their own confidentiality policies. Regardless of the mandated reporting requirements, service providers are often left with the dilemma of how to effectively work with teens experiencing dating violence while maintaining their state mandated reporting obligations.

“Studies show confidentiality is the most important factor in whether or not a teen victim seeks services.”

¹⁰ These states are California, Delaware, Massachusetts, New Hampshire, Georgia, Illinois, Kansas, Kentucky, Nevada, New York, Wisconsin, and Vermont.

¹¹ Glosser, A., Gardiner, K., Fishman, M. *Statutory Rape: A Guide to State Law and Reporting Requirements*. ONLINE. 2004: 26. Dept. of Health and Human Serv. Available: <http://www.hhs.gov/opa/pubs/statutory-rape-state-laws.pdf> [December 2004].

¹² Id. at 35.

¹³ Id. at 81.

¹⁴ Troup-Leasure, K. & Synder, H. *Statutory Rape Known to Law Enforcement*. ONLINE. 2005. Office of Juvenile Justice and Delinquency Prevention. Available: <http://www.ncjrs.gov/pdffiles1/ojjdp/208803.pdf> [August 2005].



Obstacles for Providers

Confidentiality. When teens experiencing dating violence seek assistance and information from service providers, they, like adults, do so with the assumption that the information they share will remain confidential. Even without the added challenge of mandated reporting, it is difficult for teens to reach out to adults for help. Only 33% of teens experiencing dating violence ever report their abuse to anyone, and of those, 86% reported they would only tell a friend.¹⁵ Teens have difficulty reaching out for help for a variety of reasons, such as fear of retaliation or future abuse, concerns about parental involvement, or fear of being “outed” as gay, lesbian, or transsexual.

Maintaining confidentiality is vital to gaining the trust of teens experiencing dating violence. Mandatory reporting requirements that encompass statutory rape may deter teens who are experiencing dating violence from seeking or continuing legal representation, advocacy services, and physical and mental health care. Particularly worrisome is that fear of unwanted disclosure of their personal information may discourage young women from seeking prenatal, reproductive and sexual health care.

Emotional Impact on Client. It is often the case that teens experiencing dating violence, like many adults, want the violence, not the relationship, to end. The victim may not want the abuser punished for the statutory rape (or any other abuse), particularly if she sees the sexual relationship as consensual and not part of the abuse. In this scenario, the client may view reporting the statutory rape as a violation of her trust and come to view the service provider as an adversary rather than an ally. Most sexually active teens believe they are old enough to consent to the sexual act and do not think that a statutory rape charge is appropriate. Even if the client wants to end the relationship, she may not want to pursue a statutory rape prosecution. If the report leads to an arrest and prosecution, she may fear more violence and retaliation by her abuser. For immigrant teens, the fear of deportation of their abuser (or even themselves and/or their families) may create another obstacle to seeking assistance for their abuse. For gay and lesbian teens, a statutory rape prosecution may put their sexual orientation out in the open before they are ready, which could cause further emotional trauma.

Ethical Obligations. Service providers who are also mandated reporters must be more nuanced in their intake and interviewing of teen clients. In order to build trust with a teen client, service providers must maintain confidentiality and preserve the integrity of the relationship. However, providers must also fulfill their role as mandated reporters and serve the governmental goals of safety and protection. These two obligations are often in conflict and can create tension within a provider’s practice, which may lead to reluctance to work with teens or to ask questions regarding sexual health and behavior or the identity of a teen’s partner.

“Fear of disclosure may discourage young women from seeking prenatal, reproductive, and sexual health care.”

¹⁵ Liz Claiborne. “Teen Relationship Abuse Survey.” 2005 Love Is Not Abuse. 14 July 2008 <http://www.loveisnotabuse.com/pdf/Liz%20Claiborne%20Mar%202006%20Relationship%20Abuse%20HotSheet.pdf>. This article was reprinted with permission from Break the Cycle, Los Angeles, Ca. (see Balancing Obligations, Teen Dating Violence Technical Assistance Issue Brief No. 3 • August 2008, www.breakthecycle.org).

Overcoming Obstacles



Striking a balance between the interests of teens experiencing dating violence and the goals of statutory rape laws is challenging but certainly not impossible. There are a variety of ways to overcome these obstacles.

✓ **Communicate often and openly**

When working with teen victims, immediately communicate your mandated reporting obligations before engaging in an intake and assessment. Communicating these requirements up front builds trust and allows the teen to decide which and how much information to share. If parental involvement comes necessary or is requested, recognize that the teen's parents may have different goals for the outcome than your client. If the situation permits it, set up a time to meet with the teen either alone or, preferably, with an advocate.

✓ **Creating a safe place for the teen client is vital to a full assessment and successful provision of services**

Meet your teen client where she is. Many teens experiencing dating violence by an adult partner do not view the sexual relationship as part of the abuse. Further, a teen victim may not be ready to end the relationship. Listen to your clients. Use your relationship with your clients and the clients' own experiences to educate them on the dynamics of dating violence, with the goal of empowering them to end the abusive relationship. Acknowledging the adolescent development process may make it easier to understand and empathize with teens experiencing dating violence.

✓ **Know your reporting requirements**

If your state's statutes are vague, discuss ways to address your limitations with your agency's attorney. If your organization does not have an attorney, you can call the state agency that handles child abuse reporting to determine the parameters of the statute. Work with your organization to create an organizational policy on reporting cases of statutory rape and teen dating violence. Work with your colleagues to develop forms and procedures that address the needs of clients and mandated reporting requirements without compromising your professional duties or your client's confidentiality.

✓ **Collaborate with other service providers**

A teen who seeks help for dating violence usually works with several service providers. Develop a plan of action for dealing with teen victims, including (but not limited to): developing a resource guide, creating age-appropriate educational and outreach materials, and sharing information (after receiving a client's confidentiality waiver).

✓ **Educate yourself**

Adolescent years are filled with physical, mental, and emotional changes. Adolescents are no longer children and are not yet adults. Educate yourself on how teens communicate and think. Although each teen is unique, the underlying causes of frustration, communication, and decision-making derive from the physiological and emotional development of adolescence.

✓ **Prevention education is key**

Educating the public about statutory rape laws and teen dating violence can help prevent certain acts of abuse. Utilize the resources that your state has created, such as posters geared to adults and teens that address statutory rape laws. Create new educational materials and distribute them widely to service providers and the general public. Educate nontraditional agencies. Reach out to other organizations that serve teens and places where teens go for help and educate these groups on teen dating violence and statutory rape. With more knowledgeable service providers, teen victims have more opportunities to seek help and guidance and are more likely to leave an abusive relationship. ○

Why Teens Don't Tell

By Rappahanook Council Against Sexual Violence
Reprinted with permission

Teenagers are unlikely to report date and acquaintance rape to the police, much less to anyone else!

Understanding the reasons why teens don't talk about sexual violence can help service providers create an environment where a teenager will feel safe to come forward and talk about sexual violence.



- **No one will believe them!** Teens may fear that no one will believe they were raped, especially when the assailant is someone they know.
- **Survivors don't identify forced sex against their will as rape and as a crime.** When the survivor knows the assailant and has no injuries, she may identify the act as unwanted sex or something that made her feel uncomfortable. But she may not identify it as rape.
- **It was the victim's fault.** Victims often believe it was somehow their fault. More than any other crime, rape victims are questioned about their actions and "their" part in the rape.
- **Survivors don't want the perpetrator to get in trouble.** Although it may be difficult to understand, a teen rape survivor may not want to get a friend, boyfriend or acquaintance in trouble.
- **Everyone will find out.** A teen may fear her story will not be confidential and everyone at school will find out. Recent media events contribute to this fear.
- **Survivors may fear they will be punished.** A teen may not tell parents perhaps because they broke their curfew or went out with someone their parents said not to date. Fear of parental reaction may override the need to tell.
- **Survivors are embarrassed by the crime.** Teens are embarrassed to discuss sex with parents. Sexual abuse is even more difficult to talk about.
- **Survivors may feel family can't handle it.** A teen may feel they can handle it alone and may wish to protect the family.
- **Psychological/geographical distance from parents.** Many teens chose not to talk to their parents about much of anything. Or some may be away at school or living with only one parent or relative.
- **Survivors wish to maintain independence.** During adolescence, most teens are gaining independence and fear their "freedom" will be restricted. ◉

Challenges Facing Teen Survivors Seeking Protection Orders in Washington

By Kelly O'Connell, Esq.
Sexual Violence Law Center

Like all victims, teenagers are significantly impacted when someone chooses to sexually assault them and many teen victims fear for their safety. Everyone deserves to feel safe and protected. Unlike children who depend on their parents to ensure their safety and unlike adults who have legal standing to seek protection through the court system, teenagers are caught in the middle of overlapping laws and sliding rights tied to age. Given all the issues teens face – from peer pressure and gossip to substance abuse and self-blame – it is critical that teen sexual assault victims are equipped with the knowledge necessary to make informed decisions about their legal options, including protection orders. The better we understand the pros and cons associated with seeking these orders, the more effective we are assisting teens in becoming empowered to advocate for their own safety while respecting their personal development and autonomy.

One of the many feelings a victim may experience following a sexual assault is fear for her safety. After experiencing such a profound violation, many victims do not want to encounter the perpetrator again. Teenage victims face additional challenges following a sexual assault including: seeing the perpetrator at school; fear and confusion about what happened, e.g. unwanted sex vs. rape; not having any money or transportation to get medical or legal help; being afraid to tell their parents; not trusting authority figures or the legal system and fearing public knowledge about the assault. Teenagers experience the highest rates of sexual abuse and should be educated about the potential use of protection orders to ensure their safety.

Protection orders are court orders that make it illegal for the abuser to harm, come near or contact the victim. While protection orders are not always right for all situations, there are many ways that an order may help protect a victim of sexual abuse, including: encouraging the police, school administrators and other authorities to help protect the victim from the abuser; establishing an official record of the incident; providing the victim with a place to tell her story and hold the abuser accountable in public; and providing the victim the ability to call the police as soon as the abuser contacts or comes near her.

In Washington, teenage victims of dating and sexual violence most commonly seek Domestic Violence Protection

Orders (DVPO) or Sexual Assault Protection Orders (SAPO). While the goals of both types of orders - stopping the perpetrator from contacting the victim are similar, the type of order available to a victim depends on the facts and circumstances of each case. However, if a victim can show the court she experienced sexual violence and needs protection, it is likely some type of order can be obtained.

While a protection order can be a powerful legal tool, in the end, it is only a piece of paper and cannot guarantee anyone's safety. Often people believe that once they get a protection order, the perpetrator will change or agree to stay away – unfortunately this is often not the case. A protection order cannot guarantee that the perpetrator still won't attempt (and perhaps succeed) to harass, scare, intimidate or otherwise harm the victim. Similarly, it cannot prohibit gossip or negative peer response.

Generally, teenage victims must follow the same legal process as adults in order to get a protection order. However, there are certain barriers within the legal system and depending on the type of order sought, that uniquely affect teens. Some of these barriers affect all teens because they have to do with their minority status and others are specific to the type of protection order requested.

Age Limits

In Washington, teenagers sixteen and older may petition the court directly for their own protection order. This means that a sixteen year old can go to court without telling her parents and ask the judge to issue either a domestic violence or sexual assault protection order against the perpetrator. If the perpetrator is under eighteen, the victim also has to make sure the parents of the teenage perpetrator are served with notice of the protection order hearing.

Teens who are fifteen or younger cannot directly ask the court for a protection order. A parent or adult guardian must petition the court on their behalf. If a teen does not want to tell their parent(s) or involve them in the protection order process, they may be able to have another adult help them. This adult may be a relative or friend and is referred to as a guardian ad litem.

Note: Regardless of the age of the teen seeking a protection order, it is important that they understand court proceedings generate public records and the victim's court records are not private.

Dating Relationships

The main difference between DVPOs and SAPOs is the relationship between the perpetrator and the victim. If a teen has dated the perpetrator the law says that a DVPO is the only appropriate protection order because of the "domestic relationship". A victim qualifies for a DVPO because she has dated, lived with, had a child with or married the perpetrator. In short, if the perpetrator is someone the victim had or previously had an intimate relationship, then she cannot apply for a SAPO.

It can be tricky for teens to figure out what constitutes a "dating relationship." If a teen has spent time with the perpetrator in group social situations, does that count as dating? What if the victim and perpetrator had previously "hooked up" after a high school football game or dance? What if they are "going out" in middle school but the victim and perpetrator have never been out on a date together? What counts as "dating" in terms of qualifying for a DVPO?

The law does not definitively answer these questions and many teens find themselves in a gray area trying to decide whether past experiences should be considered "dating". Generally, if there has been a past romantic relationship of any type, the DVPO is going to be the more appropriate order. SAPOs in Washington are relatively new and were created to address situations where there was no intimate relationship between the parties and where an anti-harassment order was not applicable or sufficient to address the seriousness of sexual violence. SAPOs are most effective to address sexual violence that occurs between a co-worker, classmate, neighbor, acquaintance or stranger.

Age of Consent & Dating

Another complicated issue for teens is when they consider a relationship to be consensual and their parents think it's abusive. For example, a 15 year old is in a sexual relationship with her 19 year old boyfriend. Both teens view their relationship as consensual. The parents of the 15 year old girl believe that she is being sexually abused since the "age of consent" in Washington is 16.

The "age of consent" refers to the age in the criminal justice system that determines when a sex crime has occurred. In the Washington criminal system teens under sixteen may not by law give consent. Sexual relations involving children fifteen and younger may be punished as rape, sexual assault or other sex crimes

depending on the age difference between the parties. While the age of consent is sixteen, it doesn't mean that sexual contact between anyone over sixteen with anyone under sixteen is criminal. There must be a four year age difference between a fourteen and fifteen year old and the other party; a three year difference for a twelve or thirteen year old; and a two year difference for someone under twelve to be considered "rape of a child." For example a fourteen year old girl dating and possibly having sex with a seventeen year old boy is legal.

Protection orders are in the civil justice system and do not address the "age of consent". However the reference to the age of sixteen as the "age of consent" is often borrowed from the criminal system when parents seek protection orders on behalf of their fifteen and younger teenagers whom they do not feel are old enough to consent to sex.

Whether a relationship is considered "dating" or abusive becomes relevant when deciding which type of protection order is appropriate. In this example, the judge may order a DVPO based on the dating relationship between the fifteen and nineteen year old. Many parents however, feel that a SAPO is the appropriate order because they would not view this as a valid "dating relationship," but rather as abusive. Others would argue that the criminal definition of "age of consent" does not apply in civil protection orders and the inquiry should be whether the particular victim applying for the order has suffered sexual abuse – factoring in not only the victim's age but also their maturity and other facts and circumstances of the specific case.

Protection Orders Don't Require Teen Participation

Protection orders do not require the teen who is the identified victim to be involved in any way in the process when the order is sought on their behalf. In the example above, the parent of the fifteen year old daughter could go to court and petition for a SAPO "on behalf of" her minor child.

- Nothing in the law requires that the teenage daughter be given notice of her mother's attempt to get a protection order on her behalf.
- Nothing in the law requires that the teen be given an opportunity to be heard at the hearing. In fact the law allows parents to petition for a protection order on behalf of their minor children – meaning any teenager under eighteen – yet does not require the teen's involvement or consent.


However, most thorough judges do want to hear from the teenage victim. Often the only evidence in a petition for a sexual assault protection order is the victim's testimony so the teenage victim's involvement is necessary to meet the evidentiary burden to obtain the order.

Protection Orders at School

Often the perpetrator is another teen attending the same school as the victim. The perpetrator's presence at school can be very upsetting and disturbing for the victim. Peer response such as gossip, rumors, teasing and fear of retaliation further compound accessing and maintaining safety for student victims of sexual assault.

If a victim wants the court to order the minor perpetrator to attend a different elementary, middle or high school, the victim can request it through a SAPO or a third type of order called an Anti-Harassment Order (AHO). Prior to the creation of SAPOs, AHOs were the only orders that provided school-transfer remedies for student sexual assault victims against their fellow student-abusers. However, the alleged perpetrator must be under investigation or have been charged in the criminal justice system. A SAPO-ordered school transfer does not require this and can be ordered even if the victim has not reported to the police.

AHOs require that the petitioner show the perpetrator engaged in a pattern of alarming, annoying or harassing conduct. Sexual assault victims can find this pattern difficult to prove if there was only one incident of sexual assault. AHOs are intended for a wide range of harassing behavior and are not necessarily designed to address the serious nature of rape or sexual assault.

If a school transfer of the perpetrator is ordered through a SAPO or AHO, the perpetrator's parents are responsible for the costs of transporting the perpetrator to the new school. Requesting this remedy will require the judge consider additional factors including: how much it will cost the abuser's family to go to a new school; how bad the assault was; if the victim is still in danger and experiencing emotional distress; and how disruptive it will be to the perpetrator's education. 

For more information on protection orders, please go to: www.svlawcenter.org/resources.

Health Care Concerns

Providing Health Care to Minors under Washington Law:

A summary of health care services that can be provided to minors without parental consent

Columbia Legal Services

**Washington State's general age of majority for health care is 18 (RCW 26.28.010).
However, a minor can receive services without parental consent in the following areas:**

Service Needed	Minor Consent Sufficient for Confidential Care	Parent/ Guardian Consent Required	Parent / Guardian Notification Required	Notes and Source
Emergency medical services:	Yes	No	No	If the parent's consent is not readily available, the consent requirement is satisfied and the minor can receive medical services. RCW 7.70.050(4).
Non-emergency medical services:	No, unless Mature Minor Doctrine applies	Yes, unless minor meets Mature Minor Doctrine standards	No	If it is not a medical emergency or one of the types of services listed below, minors may still give a valid consent under the "Mature Minor Doctrine" if they are capable of understanding or appreciating the consequences of a medical procedure. In determining whether the patient is a mature minor, providers will evaluate the minor's age, intelligence, maturity, training, experience, economic independence or lack thereof, general conduct as an adult and freedom from the control of parents.
Immunizations:	No, unless Mature Minor Doctrine applies	Yes, unless minor meets Mature Minor Doctrine standards	No	Minors may receive immunizations without parental consent under the Mature Minor Doctrine summarized above.
Sexually transmitted disease testing/ treatment (including HIV):	Yes, if ≥ 14	No	No	Minors may obtain tests and/or treatment for sexually transmitted diseases if they are 14 years of age or older without the consent of a parent or guardian. RCW 70.24.110. •Some agencies, such as Public Health – Seattle & King County, will test/treat individuals regardless of age due to mandate to prevent /control the spread of communicable disease.
Birth control services:	Yes	No	No	Minors may obtain or refuse birth control services at any age without the consent of a parent or guardian. RCW 9.02.100(2).
Abortion services:	vYes	No	No	Minors may receive an abortion and abortion-related services at any age without the consent of a parent, guardian or the father of the child. RCW 9.02.100(1); State v. Koome, 84 Wn.2d 901 (1975).
Prenatal care services:	Yes	No	No	Minors may seek prenatal care at any age without the consent of a parent or guardian. State v. Koome, 84 Wn.2d 901 (1975).
Outpatient mental health treatment:	Yes, if ≥ 13	No	No	Minors may receive outpatient mental health treatment if they are 13 years of age or older without the consent of a parent or guardian. The parents will not be notified without minor consent. RCW 71.34.530.
Inpatient mental health treatment:	Yes, if ≥ 13	No	Yes	Minors 13 years of age or older may receive inpatient mental health treatment without parental consent. The parents must be notified, however. RCW 71.34.500.
Outpatient substance abuse treatment:	Yes, if ≥ 13	No	See Source and Notes section.	Minors 13 years of age or older may receive outpatient substance abuse treatment without parental consent. The provider will inform the parents that the minor is receiving outpatient treatment within seven business days if the minor gives written consent or if the provider determines that the minor is not capable of making a rational choice to receive the treatment. RCW 70.96A.096, 230.
Inpatient substance abuse treatment:	No, unless determination of Child In Need of Services (CHINS)	Yes, unless CHINS determination	Yes, unless CHINS	Minors 13 years of age or older may receive inpatient substance abuse treatment without parental consent if DSHS determines he or she is a "child in need of services." RCW 70.96A.235. If school district personnel refer a child to inpatient chemical dependency services, they must notify the parents within 48 hours. RCW 70.96A.096 Parental notification is required if parental consent is required.

- A legally emancipated minor or a minor married to either an adult or an emancipated minor is treated as an adult.
- Information accurate as of November 5, 2007. For most up-to-date version and related document, "A Kinship Caregiver's Guide To Consenting To Health Care," please visit www.washingtonlawhelp.org.
- Unless specified elsewhere in the document, the term "medical services" includes dental, optometry, and naturopathy services.
- RCW – Revised Code of Washington- <http://apps.leg.wa.gov/rcw/>



Emergency Contraception:

A Safe & Effective Contraceptive Option for Teens

Advocates for Youth

In Washington, teens thirteen and older who experience sexual violence can seek reproductive health care services for free.

Teens' current use of contraception prevents as many as 1.65 million pregnancies in the United States each year.¹ However, about 800,000 teens still experience a pregnancy each year and 85 percent of these pregnancies are unintended.² Emergency contraception (EC)—a method of preventing pregnancy after sexual intercourse—is an important contraceptive option that could annually prevent at least 50 percent of unintended pregnancies among American women.³ Experts estimate that timely use of EC could prevent up to 70 percent of abortions.² In fact, use of EC prevented about 51,000 abortions in 2000.⁴

¹ Kahn JG et al. Pregnancies averted among U.S. teenagers by the use of contraceptives. *Family Planning Perspectives* 1999; 31:29-34.

² Society for Adolescent Medicine. Provision of emergency contraception to adolescents: position paper of the Society for Adolescent Medicine. *Journal of Adolescent Health* 2004; 35:66-70.

³ Trussell J et al. Emergency contraceptive pills: a simple proposal to reduce unintended pregnancies. *Family Planning Perspectives* 1992; 24:269-73.

⁴ Jones RK et al. Contraceptive use among U.S. women having abortions 2000-2001. *Perspectives on Sexual and Reproductive Health* 2002; 34:294-303.



EC Prevents Pregnancy and the Need for Abortion

- EC is also known as “postcoital contraception” or “the morning-after pill,” but the term emergency contraception underscores that EC can be used up to 120 hours (five days) after unprotected sex.^{5,6}
- EC delays or inhibits ovulation, disrupts follicular development, and/or interferes with the maturation of the corpus luteum. There is no evidence that EC prevents implantation, alters sperm or egg transport, inhibits fertilization, or changes cervical mucous.^{2,6}
- EC does not affect an established pregnancy and does not cause abortion.² The National Institutes of Health, the American College of Obstetricians and Gynecologists (ACOG), and the American Medical Women’s Association (AMWA) define pregnancy as beginning with implantation.^{7,8}
⁹ ACOG, AMWA, and other organizations, including the U.S. Food & Drug Administration (FDA), agree that EC has no effect once implantation has occurred.^{8,9,10} Moreover, the Society for Adolescent Medicine (SAM) asserts that there is no evidence that EC affects a fertilized egg, even before implantation.²

EC Is Safe and Effective

- The FDA states that EC is safe and effective.¹⁰ SAM, ACOG, AMWA, the American Medical Association, U.S. Department of Health & Human Services, and the World Health Organization all support women’s access to EC.^{2,8,9,11,12,13}
- Accidental use of EC during pregnancy will not cause birth defects.² Numerous studies for risk of birth defects during regular use of oral contraceptives (including older, higher dose preparations) found no increased risk.⁸
- EC is approximately 80 to 85 percent effective at preventing pregnancy, depending on how promptly a woman uses it, when during her cycle she had sex, and the kind of EC she takes. Some studies show EC is most effective when taken as soon as possible after unprotected sex. Progestin-only pills are more effective than combination pills (containing both estrogen and progestin).² The most common side effects associated with EC use are nausea (in 30 to 50 percent of women taking it) and vomiting (in 15 to 25 percent). Other less common side effects include fatigue, breast tenderness, headache, abdominal pain, and dizziness. These side effects are significantly more common for combination pills than for progestin-only pills.^{2,14}

⁵ Ellertson C et al. Extending the time limit for starting the Yuzpe regimen of emergency contraception to 120 hours. *Obstetrics & Gynecology* 2003; 101:1168-1171.

⁶ Conard LAE, Gold MA. Emergency contraceptive pills: a review of the recent literature. *Current Opinion in Obstetrics & Gynecology* 2004; 16:389-395.

⁷ Office for Protection from Research Risks, National Institutes of Health, Dept. of Health & Human Services. Protection of Human Subjects. Code of Federal Regulations 45 Part 46; rev. November 13, 2001. Accessed December 3, 2004. [<http://www.hhs.gov/ohrp/humansubjects/guidance/45cfr46.htm>]

⁸ American College of Obstetricians & Gynecologists. Emergency oral contraception. ACOG Practice Patterns 1996; No. 3:1-8.

⁹ American Medical Women’s Association. Position Statement on Emergency Contraception. Alexandria, VA: Author, 1996.

¹⁰ Government Printing Office. Prescription drug products: certain combined oral contraceptives for use as postcoital emergency contraception: notice. *Federal Register* 1997(February 25); 62:8609-12.

¹¹ American Medical Association. Access to Emergency Contraception [Report of the Council of Medical Service, CMS, Report 1-I-00] Chicago, IL: Author, 2000.

¹² U.S. Dept. Health & Human Services. Emergency Contraception [Memorandum: OPA Program Instruction Series, OPA 97-2] Rockville, MD: Author, 1997.

¹³ World Health Organization. Improving Access to Quality Care in Family Planning: Medical Eligibility Criteria for Initiating and Continuing Use of Contraceptive Methods. [WHO/FRH/FPP/96.9] Geneva: WHO, 1996.

¹⁴ Van Look PFA, Stewart F. Emergency contraception. In: Hatcher RA et al. *Contraceptive Technology*. 17th rev. edition. New York, NY: Ardent Media, 1998.




Many Brands of Oral Contraceptives Are Used for EC in the United States

- Progestin-only pills (Plan B and Ovrette) are the preferred regimen to provide for EC due to their higher efficacy and lower side effects. Many combination pills, however, can also be used for EC.^{2, 15}
- Women should be counseled to follow up with their health care provider two weeks after using EC to ensure they did not become pregnant, to consider testing for sexually transmitted infections (STIs), including HIV, and to discuss effective contraceptive options.²

Health Care Providers Should Give Teens Information About and Access to EC

Adolescents face cultural, financial, legal, psychological, and social barriers to accessing contraceptive information and services, especially EC-related information and services. SAM asserts its support for increasing awareness of and improving timely access to EC for teens. Specifically, SAM recommends adolescent health care providers should:

- Maintain the same degree of confidentiality when providing EC as when providing other reproductive and sexual health care.²
- Counsel all adolescent men and women about EC during acute and routine health care visits.²
- Provide all adolescent women with an advance EC prescription or medication to take home for future use.²
- Provide EC without requiring adolescent women to receive a pregnancy test, pelvic exam, Pap smear, or STI/HIV test.²
- Develop protocols for telephone triage and prescribe EC over the telephone, whenever possible.²
- Counsel all adolescent women being treated for sexual assault about EC and offer them EC.²
- Support changing the status of EC from prescription-only to over-the-counter without an age restriction.² 

Reprinted here with permission. Written by Ammie N. Feijoo, MLS, Advocates for Youth, © 2005 Advocates for Youth, 2000 M Street, NW, Suite 750, Washington, DC 20036 USA Phone: 202.419.3420 Fax: 202.419.1448 www.advocatesforyouth.org

* In this fact sheet, emergency contraception refers to emergency contraceptive pills—combination or progestin-only pills taken after unprotected sex to prevent pregnancy. An intrauterine device (IUD) can also be used as emergency contraception if inserted up to five days after unprotected sex to prevent pregnancy. Emergency insertion of an IUD after unprotected sex reduces the risk of pregnancy by more than 99 percent. However, IUDs are not ideal for all women, especially young women.¹⁶

¹⁵ Office of Population Research at Princeton University, Association of Reproductive Health Professionals. Twenty-one Brands of Oral Contraceptives that Can Be Used for Emergency Contraception in the United States.


¹⁶ Office of Population Research at Princeton University, Association of Reproductive Health Professionals. Copper-T IUD as Emergency Contraception. Princeton, NJ: Author, 2002. Accessed December 3, 2004. [<http://ec.princeton.edu/info/eciud.html>]

Teens, Schools & Sexual Violence

Sexual Violence Law Center

Every day, students are sexually assaulted in elementary, junior high, and high schools. Sexual violence in schools affects 8 out of 10 male and female students at some time in their school careers. Sexual violence has a negative impact on students' emotional and educational lives. Every school has a legal obligation to publicize a policy against sex discrimination, including a process for responding to complaints of sexual violence.

Sexual assault is a severe form of sexual harassment. Schools that receive federal funds are required to prevent and appropriately respond to incidents of sexual violence, per Title IX of the 1964 Civil Rights Act. Sexual assault victims also have other legal rights in educational settings – such as privacy protections and access to their own school records under the Family Education Rights and Privacy Act (FERPA) – which are not addressed in this article. College and university students also have institution-specific processes and remedies available through student codes of conduct, disciplinary proceedings and other campus-based remedies which are beyond the scope of this publication.

It is important that victims understand that when sexual violence occurs at school, the school has ethical and legal responsibilities to protect both the victim and the alleged perpetrator. This may impact how the school responds or fails to respond appropriately to a victim of sexual violence, thus perhaps increasing the need for victim advocacy in the education arena. Having a foundation of knowledge about this topic will enable advocates to provide more informed support to victims and assist them in making informed decisions about their education rights and available legal remedies. 



Sexual Assault in Schools

Q&A

What is sexual assault/harassment in schools?

Sexual violence takes many different forms – from unwanted sexual touching such as rape, to invasions of space such as sexual jokes and cat calls, to attitudes and beliefs such as “victims are to blame” or the “normalizing” of violence, particularly against women, because of their sex. It is unwanted and unwelcome behavior of a sexual nature that interferes with a student’s right to receive equal educational opportunities. It can include unwelcome sexual advances, requests for sexual favors, and other verbal (insulting remarks and jokes and verbal abuse), nonverbal (such as leering and physical gestures conveying a visual meaning) or physical conduct of a sexual nature (from pinching and fondling to rape).

All the examples referred to above are forms of sex discrimination, and are against the law. Federal law protects people’s civil rights in the education setting and addresses sex discrimination and, by judicial precedent, sexual harassment. As previously mentioned, sexual assault is a severe form of sexual harassment, which is prohibited under federal law. The courts and the Office for Civil Rights (OCR) have recognized two forms of sexual harassment claims: the quid pro quo (this for that) claim and the hostile environment claim. A quid pro quo claim is where a teacher (or responsible employee) conditions an educational decision(s) or benefit(s) upon the student’s submission to unwelcome sexual conduct. Quid pro quo sexual assault/harassment is unlawful whether the student resists and suffers the threatened harm or submits and thus avoids the threatened harm. The second form of sexual assault recognized under the law is called a hostile environment claim. This type of sexual assault/harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal or physical conduct of a sexual nature by an employee, another student, or a third party. A hostile environment claim requires that the harassing behavior be serious enough to deny or limit a student’s ability to participate in or benefit from the school’s program based on sex.

What constitutes “unwelcome conduct”?

- Conduct is unwelcome if the student did not request or invite it and “regarded the conduct as undesirable or offensive.”
- The fact that a student may accept the conduct does not mean that he or she welcomed it.
- Alleged “consensual” sexual relationships between an adult school employee and an elementary student will never be viewed by OCR as consensual.

What responsibility do schools have to end and/or prevent sexual assault at school or school sponsored events?

Under state and federal law, school districts are required to address the issue of sexual assault in their policies. However, it may be referred to as sex discrimination, sexual harassment, harassment, bullying or intimidation, rather than sexual violence. RCW §28A.300.285 requires all schools in Washington State to adopt model prevention policies and training materials that prohibit harassment, intimidation and bullying. It is the responsibility of each school district to share this policy with parents or guardians, students, volunteers and school employees. There may also be provisions in these policies specific to providing resources to victims of bullying, harassment and intimidation. Ask your local school for a copy of their policies and training materials.

How do I know if the behavior the victim has been experiencing or has experienced at school rises to the level of “hostile environment sexual harassment” prohibited by federal law?

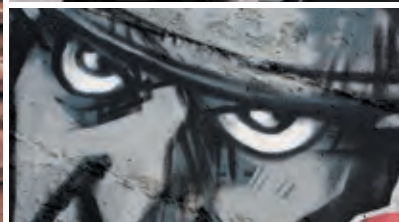
Ask the victim to determine whether or not the sexual violence or ongoing sexual harassment she has experienced at school, has denied or limited her ability to participate in or benefit from the educational program. If the answer is yes, then ask how. She will need to identify specific things such as missing class, missing school all together, not being able to concentrate, failing grades, etc...

What the law considers as contributing factors to the creation of a hostile environment in the school setting based upon sex discrimination are the following:

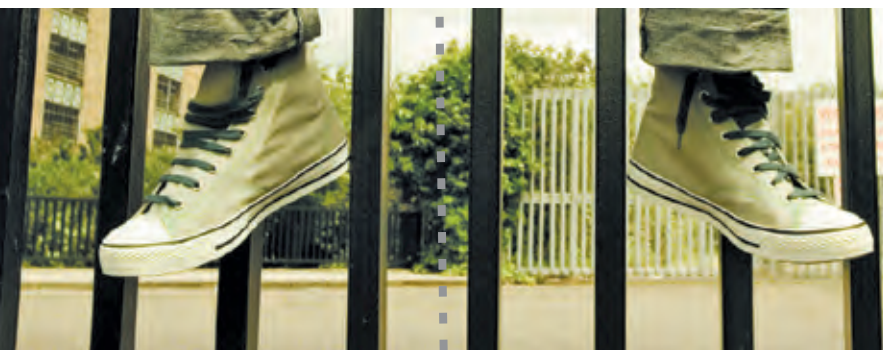
- The degree to which the conduct affected one or more students' education
- The types, frequency and duration of the conduct
- The identity of and relationship between the alleged harasser and the victim(s)
- The number of individuals involved
- The age and sex of the alleged harasser and the victim(s)
- The size of the school, location of the incidents, and context in which they occurred
- Other incidents at the school
- Incidents of gender-based, but non-sexual harassment

Under Title IX, schools must adopt and publish a policy against sex discrimination and grievance procedures. Grievance procedures must apply to complaints of sex discrimination filed by students. Title IX does not require specific policies or procedures, only that they must be an effective means for preventing and responding to sexual harassment. Depending on the district's policies (under Title IX), they may or may not include specific responsibilities regarding the provision of resources to victimized students. Under Title IX, the critical issue is whether the school recognized that sexual harassment/sexual assault occurred, and took effective and prompt action calculated to end the harassment, prevent its reoccurrence and (as appropriate) - remedy the effect of the assault on the student.

Victims also have a right to information regarding the complaint against the other student, including information about sanctions imposed on a student who is determined to be responsible for the offensive behavior. Because there are many different ways a school may appropriately respond to allegations of sexual assault, the federal law does not provide specific duties to schools because it encourages schools and educators to take a reasonable common sense approach to addressing issues of serious misconduct. Note that if students are not aware of what kind of conduct constitutes sexual assault/harassment AND that such conduct is against the law, a school's general policy and procedures relating to sex discrimination complaints will not be effective.



Student to Student Sexual Assault



When sexual assault is perpetrated by other students or third parties (student to student sexual assault/harassment), the school is responsible under federal law, for taking immediate effective action to eliminate the hostile environment AND prevent its recurrence if the harassing conduct is sufficiently serious to deny or limit the student's ability to participate in or benefit from the program. This means that the school MUST know or reasonably should have known about the conduct (this is why it is important to notify school officials in writing).

The first question to ask when evaluating what options student victims of sexual harassment have when the perpetrator is a fellow student is whether the offender has been convicted of a sex crime. Under Washington law, if the juvenile offender has been adjudicated for a sex crime, schools have a direct responsibility to protect victims of sexual assault and prevent any contact with the offender.

If a juvenile offender has not been adjudicated, the responsibilities of the school are less specific and protections for victims may be obtained through a sexual assault protection order or anti-harassment order, or more generally by accessing the school's Title IX policies and grievance procedures (see discussion above).

Convicted Juvenile Offender:

RCW 13.40.125 provides that within 30 days of the release of a juvenile offender, the public and/or private school that the offender will be attending must be notified and provided with the criminal background history of the offender. Additionally, the law states that a convicted juvenile sex offender shall not attend the same public or private school as that of a victim or sibling of a victim of that sex offender. It is the responsibility of the parent or legal guardian of the offender to transport the offending juvenile to another school (including costs associated with transport). It is not the school's responsibility to determine where the offender will attend school.

Convicted or Investigated Juvenile Offender:

RCW 10.14.040(7) allows parents or guardians to petition for a protective order (called an anti-harassment order) on behalf of the child victim. If the offender has been adjudicated for an offense against the child or has been investigated for such an offense, the court may order the person restrained not to attend the same school the victim attends and order a transfer to another school. If the judge makes such an order, the parents or legal

Sexual Assault by A Teacher or School Employee

Under federal law, a school's responsibility to address sexual assault perpetrated by teachers and other employees is determined by evaluating a number of factors:

- What level of responsibility the employee has with respect to having control over the student(s)
- What degree of influence the person has over the student(s)
- When and where the assault(s) occurred
- Age & education level of student(s) involved

Additionally, a school has a duty to respond to sexual assault if it knows about the assault or if it reasonably should have known; e.g., if it would have learned of the assault if it had exercised reasonable care or made a "reasonable diligent inquiry."

A school has notice if a responsible employee "knew, or in the exercise of reasonable care should have known" about the assault. In this way schools need to ensure their employees are trained adequately so those with authority to address sexual assault know how to respond appropriately.

If a school responds improperly to sexual assault, when they have been given proper legal notice, the victim has two options: 1) to file a complaint with the Office of Civil Rights for violating Title IX – which could result in loss of federal funding to the school; (See below for further discussion on filing a complaint with OCR) or 2) may seek civil legal remedies for money damages under Title IX. In cases where the perpetrator was a teacher or school employee, knowledge can be imputed to the school administration – meaning that the school may be liable if it knew or should have known about the assault. A finding of "deliberate indifference" makes the school liable for future harm under Title IX. A school that does not immediately respond in a clearly reasonable way may be found liable for injuries suffered as a result of any continued harassment or retaliation.

guardians of the offender are responsible for the costs associated with such a transfer.

Parents or guardians (or victims 16 years and older) may also petition for a sexual assault protection order under RCW 7.90 on behalf of their child and request that the offender transfer to another school. A sexual assault protection order can be obtained regardless of whether the offender is investigated or charged criminally or whether the victim even reported to law enforcement. Just as with an anti-harassment order, if the judge issues the sexual assault protection order requiring a school transfer of the offender, the parents or legal guardians of the offender are responsible for the costs associated with the transfer.

Juvenile Offenders who have not been Convicted by a Criminal Court:

School districts are required by law to address the issue of sexual assault in their policies. If the perpetrator has not been convicted of, or investigated criminally for, a sex crime against the victim, the school's Title IX policies may be applicable if the sexual assault occurred at school or at a school sponsored activity. Regardless of whether the juvenile offender has been investigated or convicted in the criminal system, the parents or guardians of a minor victim may petition for a sexual assault protection order to require that the offender transfer to another school (see discussion above).

Advocacy Strategies

Knowing & Understanding Local Policies & Procedures

Advocates should be familiar with the local school's policies and grievance procedures regarding sexual harassment, bullying and violence. Developing effective working relationships with school personnel is critical in helping schools respond effectively and sensitively to student victims of sexual assault.

Understanding Title IX obligations of school and knowing who the Title IX Compliance Officer is for your school district will be effective advocacy tools to help prevent sexual assault and improve the response to sexual assault in schools.


The school's obligations are generally not changed because of a criminal investigation. Under Title IX they are still required to conduct their own investigation. However, depending on the facts of the case, due process rights of the accused may impact how a school conducts its investigation.

If sexual assault occurs in the educational setting, teachers and administrators also have a duty as mandated reporters to report the suspected abuse to Child Protective Services and/or law enforcement.

Advocacy and developing positive collaborative working relationships with your local schools and administrators is the best way to support and protect sexual assault victims in school settings.

If you would like additional information about Title IX, or a copy of the regulations which detail the requirements of Title IX, write or phone the OCR enforcement office which serves your state or territory, or you may call 1-800-421-3481. If you need help with a Title IX case: <http://bailiwick.lib.uiowa.edu/ge/helpRE.html>

Consider the Following Issues to help Clarify the Schools Legal Obligations:

- △ Is the perpetrator convicted of a sex offense? If so, look to the applicable state laws to help advocate for the victim's safety.
- △ If not, what are the school's policies under Title IX regarding the prohibition of sex discrimination and under our state law RCW 28A.300.285 regarding harassment, intimidation and bullying.
- △ Is the sexual assault experienced by the student sufficiently severe, persistent or pervasive?
- △ Has the sexual assault limited the student's/victim's ability to participate in or benefit from the education program? If so, how?
- △ Has the assault created a hostile or abusive educational environment?
- △ Does the school know about it? Have they been given notice of the offensive behavior? If not – notify them. If yes, what was the response? The key is understanding that the school cannot adequately address anything unless it knows of the sexual assault.
- △ What is the school's Title IX grievance procedure? How can a victim access it? How do students know about it? 

Legal Considerations for Teenage Victims of Sexual Assault

An Interview with Casey Trupin

Casey Trupin is a staff attorney at Columbia Legal Services in Seattle where he advocates for at-risk, homeless and foster youth as well as adults who are homeless. Trupin chairs the American Bar Association's Commission on Homelessness and Poverty, as well as the Advisory Board of the Gates Public Service Law Program at the University of Washington. Trupin has served as counsel to thousands of foster youth and homeless adults in litigation and has worked on state and federal legislation designed to improve services to low-income children, youth and adults in Washington State and nationwide. In 1997, Trupin co-founded Street Youth Legal Advocates of Washington (SYLAW), and went on to direct the program until 2005. Trupin has also served as Counsel for Special Projects for the Center for Law and Social Policy (CLASP) in Washington D.C., working on federal child welfare policy. In 2005, Trupin was recognized by the Congressional Commission on Adoption Institute as an Angel in Adoption for his work on behalf of homeless and foster youth. In 1996, Trupin conducted a year-long study of programs for homeless youth in Latin America as a Thomas J. Watson Fellow. Trupin graduated from the University of Washington School of Law with honors in 1999.

1. What are the most common legal issues facing teens?

I think the most common issues facing teens in general still revolve around the criminal justice system. Teens have disproportionate contact with crime, as victims, as offenders, or just interactions with the police. But beyond the obvious criminal justice system, there's a whole layer of civil issues that are specific to teens that few folks talk about. There are a number of civil issues related to domestic violence – protection orders against dating partners or others, custody issues for a teen as a child or a teen as a parent, issues that relate to teens who cannot rely on birth parents to protect them – public benefits, emancipation, status offenses and other issues. School issues – whether related to access to education, discipline, or special education – are very complicated legal issues. Teens also face a number of legal issues related to their health care – consent and confidentiality laws, access to payment, and access to appropriate services. And one of the most insidious but overlooked legal issues relates to credit issues for teens, especially for teens whose identity has been stolen or misused, which is not uncommon, and sometimes is perpetrated by a parent or relative. Finally, for teens who are in foster care, or are undocumented immigrants, there are a number of other legal proceedings and issues that they must address.

2. What resources are available for teens with legal issues in Washington state and what resources are still needed?

There are a few legal services programs dedicated to working with teens. Teamchild has five offices throughout the state and works on civil issues, largely education and mental health issues, with teens who have been involved with the criminal justice system. Street Youth Legal Advocates of Washington (SYLAW) works with teens who are homeless or at risk of homelessness on a number of legal issues. A new resource is being developed: the Lawyers Fostering Independence program (LFI), which will assist older teens who have lived in out-of-home care with civil issues. Other programs handle issues for larger populations but also work with teens. For example, Northwest Justice Project and Columbia Legal Services, also with offices around the state, work on some civil issues related to teens. Additionally, some courts have protection order advocates, who can assist with domestic violence, sexual assault or anti-harassment protection orders.

Unfortunately, there are not enough resources. While there is a program that can address each and every type of legal issue, these programs do not have the capacity to address even a fraction of the clients that contact them. Teamchild, SYLAW, and LFI are too small to take on most cases. Columbia Legal Services and Northwest Justice Project have to serve many people with not enough attorneys. In addition, serving teens well requires outreach to service providers and educators who work with teens, and none of the programs has the capacity to do enough outreach.

“Service providers must be aggressive and creative in educating themselves about the legal issues that face teens.”

3. What are the biggest challenges teens face when accessing services to address their legal issues?

The biggest challenge is finding a program that has the capacity to help. Another big program is that teens, and often the people who are assisting them, fail to recognize an issue as something that may have a legal “fix.” For example, for a teen who is being assaulted by a parent there may be four or five potential legal avenues to access a safe and stable home. But without knowing what those are, the teen may just choose to run and stay hidden. Another barrier is finding a time and place where the teen can safely meet with an advocate.

4. What can service providers do to better address these issues?

Service providers must be aggressive and creative in educating themselves about the legal issues that face teens. Some service providers have reached out to legal providers to create educational materials that were needed and didn’t exist (for example, the health care documents for teens at www.walawhelp.org). Service providers should get to know the legal service providers and invite them to present when they can.

5. What are the biggest mistakes service providers make when working with teens?

I think that, because of the lack of good information available, service providers sometimes rule out legal options because of what they’ve heard is necessary to go through that process. For example, they may think that a lawyer is necessary for some process when they don’t realize youth may have successfully navigated the process without one. We hear all sorts of things about what is necessary to be emancipated, or to file a “Child in Need of Services,” or what can legally happen to a runaway or to people who “harbor” them. Foreclosing options without fully understanding the legal issues is a mistake I often see.

6. What advice would you give providers on how to effectively work with teenagers?

Though working with a teenager as a provider can be quite different than working with a lawyer, many things are the same. I've found that trust and empowerment seem to be the most important things for both. For us as lawyers, developing trust is both easier and harder. It's easier because we have confidentiality and privilege on our side, and when clients understand that, it allows them to open up. And we can empower youth by showing them that we are working on their behalf. But what's hard is that we don't engage in helping the youth in as holistic a way as many providers do because we have to focus our resources on what is legal, as opposed to what is a purely social service. But my biggest piece of advice on working with teenagers is to find some way for them to feel empowered in their work with you – which will help with mutual trust. And secondly, to be patient with establishing trust.

“ But my biggest piece of advice on working with teenagers is to find some way for them to feel empowered in their work with you – which will help with mutual trust. And secondly, to be patient with establishing trust. ”

7. What percentage of teens that you have worked with would you estimate are victims of sexual abuse?

I work with teens who are often homeless, in foster care, being physically abused or have been abandoned. It's hard to estimate the percentage, but it is high. Of the individual teen clients with whom I work, I'd guess around 40%. It may be slightly higher for the girls with whom I work, but a high number of boys are victims too.

a. Is it something that teens readily disclose?

I wouldn't say readily. But I do think that because of the attorney-client privilege, teens will disclose frequently to a lawyer whom they trust. This allows the attorney to work with the teen on a way of addressing this without fear of breaking the client's trust.

b. How does it come up if it is not the presenting issue - or does it?

It does come up frequently even when it's not the presenting issue. I've seen it come up when a teen is given an option for work, housing or education which they inexplicably refuse. Digging deeper, sometimes the teen has ruled out that option because it involves someone who is sexually abusing them. Frequently, clients disclose that they are concerned about the sexual abuse of a sibling, as well.

8. What impact have you seen that sexual abuse has on teenagers?

It has a tremendous impact. It clearly affects teenagers' sense of self-worth, which can push them towards engaging in destructive behavior. This will ultimately put them in a position of having complicated legal issues which must be addressed. Another impact is around trust, which interferes with their ability to accept help from anyone, including an attorney, who may be in a position to do so. So, ultimately, it can put them in more dangerous and difficult situations without the capacity to get or accept help from others.

9. What are your thoughts about age differences in consensual sexual relationships when there is a significant age difference?

For example, rape crisis centers are often faced with the challenging situation of a parent wanting to call the police or obtain a protection order on behalf of their 14 or 15 year-old teenager because the teenager is in a relationship with a 20 year old. Since the teenager is under the legal age of consent (16) and due to the age difference between the parties, the parent considers this sexual abuse. The teenager often disagrees. What are your thoughts?

This is tricky. We often see confusion over the sexual consent laws/statutory rape (known in this state as “rape of a child”). While the age of consent is 16, this doesn’t mean that anyone over 16 who has sexual contact with anyone under 16 is committing a crime. Parents and teens are often confused as well, and we see parents who threaten to take action when for example, a 15-year-old is dating a 17-year-old, which is perfectly legal (there must be a 48-month age difference between a 14 or 15-year-old and the older person, a 36-month difference for a 12 or 13-year-old, and a 24-month difference for someone under 12). I certainly understand parents wanting to protect their child and have seen it used appropriately, though the criminal justice system is also available. But I’ve seen protection orders also used to keep abused teens from people who were helping them escape, so I have some concerns about the ability of parents to use these orders.

10. Are there specific laws that you feel should be changed to better respect teenager’s rights and their autonomy? Which ones and how so?

I would like to see more clarity around accessing health care for teens who have been abandoned by their parents. I think all teens in foster care should have access to an attorney who can help them understand the process. I think teens in truancy proceedings and runaways who are locked up in Crisis Residential Centers should also have attorneys – any time you are, or can be locked up, you should know your legal rights and have access to a legal professional who can protect them. I think that places that assist runaways should not be under any obligation to report them for several days, so that runaways will actually access those services instead of turning to the streets where they can be further victimized.



Abstract

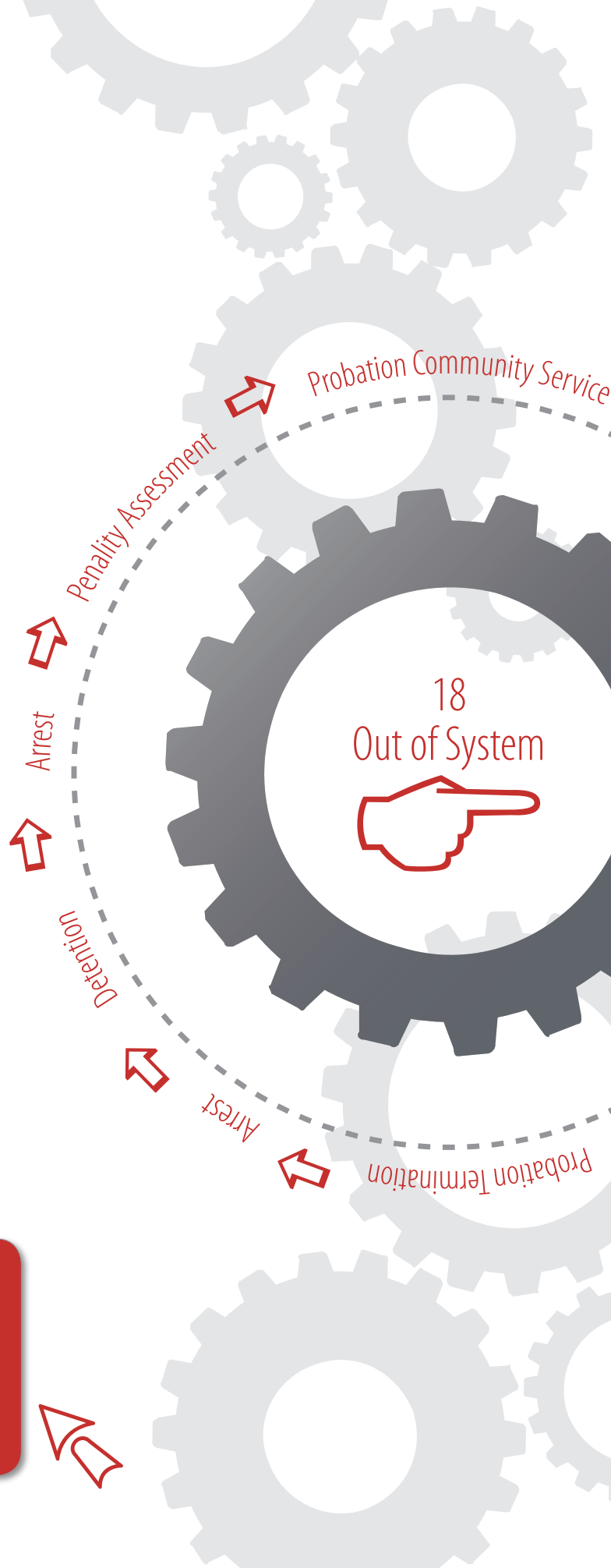
Who Pays the Price?

Assessment of Youth Involved in Prostitution in Seattle, June 2008

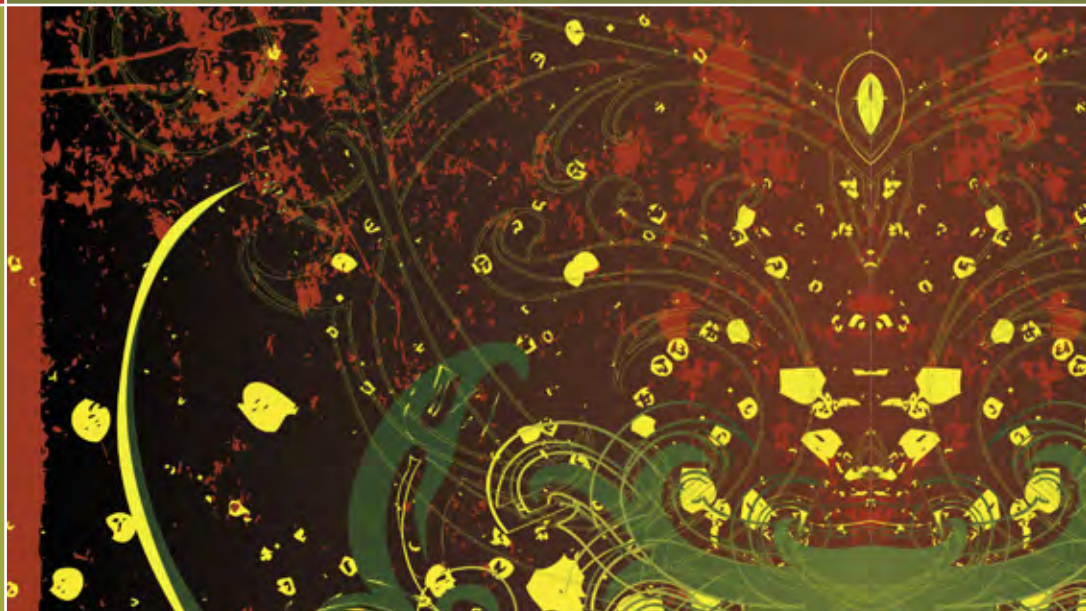
by Debra Boyer

This report, written by Dr. Debra Boyer, is an assessment on the estimates of the number of youth involved in prostitution and other forms of commercial sexual exploitation in the greater Seattle area. It is a sobering look at the world in which teens exist. The report incorporates the role of service providers, outreach workers, mental health professionals and court personnel as well as teen prostitutes. It looks at how sex trafficking of young females into prostitution is increasing – yet many victims are caught in the juvenile system as offenders. This report is a snap shot of how our juvenile justice system is ill-equipped to adequately serve teen victims and how we – as society at large, continue to fail youth, particularly those who are marginalized and categorized as “at-risk.”

For anyone working to end sexual violence,
this report is a must read.
To download a copy, please go to:
www.seattle.gov/humanservices/domesticviolence
and look under Reports.



For information about becoming a member of **WCSAP**,
please e-mail us at wcsap@wcsap.org, or call (360) 754-7583.



Non-Profit
US Postage
PAID
Olympia, WA
Permit #282

Washington Coalition of Sexual Assault Programs

WCSAP
4317 6th Ave SE, Suite 102
Olympia, WA 98503
(360) 754-7583
(360) 709-0305 TTY
(360) 786-8707 FAX

www.wcsap.org